



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

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Gregg S. Kantor
Chief Executive Officer
Northwest Natural Gas Company
220 NW Second Avenue
Portland OR 97209

Jessica Hamilton
General Manager, Harbor Environmental
Port of Portland
7200 NE Airport Way
Portland, OR 97218
PO Box 3529
Portland, OR 97208

Dear Gregg and Jessica,

This letter is to follow up on recent conversations between the Port of Portland, NW Natural and EPA regarding the forthcoming Proposed Plan and subsequent actions at the Portland Harbor Superfund site. We are also responding to the five specific items that were discussed during a February 18, 2016, meeting with Mathy Stanislaus and listed in an email sent via Elliott Laws to Mr. Stanislaus the next day. The conversations and the email generally raised issues in two areas: (1) EPA's enforcement posture following our formal selection of the site remedy and (2) questions regarding the remedial investigation/feasibility study (RI/FS).

During the conversations about upcoming site milestones and subsequent actions, both the Port and NW Natural raised concerns about EPA's enforcement posture following the issuance of the Record of Decision ("ROD") documenting our remedy selection decision. The Agency's Superfund program emphasizes an "enforcement first" approach where we first look to responsible parties to conduct response actions. The Agency's strong preference is to reach settlement agreements with provisions addressing respective interests, but in instances where we cannot do so, we may use our enforcement authorities to issue administrative orders or seek court injunctions.

Another important tenet of our Superfund enforcement program is "enforcement fairness." About 20 years ago, the Agency adopted and undertook a series of administrative reforms to address stakeholder concerns about the liability system's fairness. We continue to implement these actions to reduce unwarranted litigation, promote early settlements and address fairness concerns in the application of Superfund's liability approach. It is the government's policy to undertake a thorough PRP search at every site and to make sure as many parties as possible participate in the site settlement process. Another important way the government ensures a fair enforcement process, as well as one that reinforces the importance of settlement, is by actively pursuing those parties that choose not to settle. While it is not

appropriate here to discuss any specific enforcement strategy with respect to Portland Harbor, we will consider using the full range of our enforcement options with the goal of achieving effective settlements with the largest number of parties possible. The general framework for achieving settlements following ROD issuance can be found in our 1999 guidance entitled, "Negotiation and Enforcement Strategies to Achieve Timely Settlement and Implementation of Remedial Design/Remedial Action at Superfund Sites."

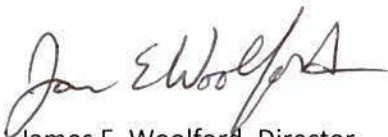
Following completion of the ROD, the potentially responsible parties will be given an opportunity to submit a good faith offer. Those parties that submit a good faith offer will have an opportunity to enter into settlement negotiations and discuss factors for remedy implementation. Non-cooperative parties will risk unilateral orders, litigation and other actions.

In implementing the selected remedy, EPA expects to consider the following factors: prioritization of source areas, sequencing of design and construction actions, logistics efficiency or other factors. Implementation of the selected remedy may also require the collection of additional data and the possibility of performing discrete early actions. EPA will evaluate remedy implementation and modify activities, as appropriate, to attain remediation goals and remedial action objectives. As the remedy will be implemented over multiple years, there will be opportunities to utilize experience gained and monitoring data to inform the implementation and performance of later stages of the remedy. Decisions regarding sequencing of design and construction actions will likely consider factors such as potential effects of upstream work on downstream areas, nature and extent of contamination and how particular cleanup actions will contribute to achieving the selected remedy's goals.


With respect to the issues you raised regarding the feasibility study, risk assessment and related topics, EPA (Region 10 and Headquarters offices) have been working diligently to address the comments we received from you and others on the August 2015 draft feasibility study. We appreciate the issues you raised, but until EPA releases the final feasibility study, along with the Proposed Plan in early April, it would be premature to address your specific RI/FS issues.

If you have any questions, please feel free to contact either of us.

Sincerely,



James E. Woolford, Director
Office of Superfund Remediation and
Technology Innovation
Office of Land and Emergency Management



Cynthia L. Mackey, Director
Office of Site Remediation Enforcement
Office of Enforcement and Compliance
Assurance